

[NOT SCHEDULED FOR ORAL ARGUMENT]

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

UNITED STATES STEEL  
CORPORATION, *et al.*,

Petitioners,

v.

COMMITTEE ON FOREIGN  
INVESTMENT IN THE UNITED  
STATES, *et al.*,

Respondents.

No. 25-1004

**CONSENT MOTION TO MAINTAIN CASE IN ABEYANCE**

Pursuant to Federal Rule of Appellate Procedure 27 and this Court's order dated April 11, 2025, the government respectfully moves to further hold this case in abeyance until June 13, 2025, in light of the ongoing discussions between the parties described below. Petitioners consent to this motion. In support of this motion, the government states the following:

1. This petition for review, filed under 50 U.S.C. § 4565(e)(2), seeks review of the Presidential Order Regarding the Proposed Acquisition of United States Steel Corporation by Nippon Steel Corporation, 90 Fed. Reg.

2605 (Jan. 3, 2025), and the related referral to then-President Biden by the Committee on Foreign Investment in the United States (CFIUS). That order prohibits the proposed acquisition of U.S. Steel by Nippon Steel Corporation and Nippon Steel North America. *See id.* § 2. The order also reserves the President’s “authority to issue further orders with respect to the Purchasers or U.S. Steel as shall,” in the President’s judgment, “be necessary to protect the national security of the United States.” *Id.* § 3.

On April 6, 2025, President Trump, acting pursuant to that reservation of authority, issued a Presidential Memorandum that directed CFIUS “to conduct a review of the acquisition of U.S. Steel by the Purchasers to assist” the President “in determining whether further action in this matter may be appropriate.” Presidential Memorandum Regarding the Review of Proposed United States Steel Corporation Acquisition § 1(a) (Apr. 6, 2025). The memorandum also directed CFIUS to “submit a recommendation” to the President “within 45 days”—*i.e.*, by May 21, 2025—that described “whether any measures proposed by the parties are sufficient to mitigate any national security risks identified by CFIUS” and that “include[d] a statement describing each member agency’s position, including the reasons for such position.” *Id.* § 2.

Pursuant to the memorandum, CFIUS submitted a recommendation to

President Trump on May 21, 2025. Since that time, petitioners and the United States Government have continued to work to reach a resolution that would obviate the need for this Court's consideration of the merits of this action.

2. Petitioners filed their opening brief on February 3, 2025, generally contending that President Biden's order prohibiting the proposed acquisition violated petitioners' due process rights and was *ultra vires*, and that CFIUS's referral to the President violated petitioners' due process rights and the APA's requirements. *See* Opening Br. 9-10.

Following President Trump's memorandum, the Court placed this case in abeyance for 60 days and directed the parties to file motions to govern further proceedings by June 5, 2025. As a result, there are no currently scheduled dates for next steps in the litigation.

In light of the foregoing, the government respectfully requests that this case be held in abeyance for an additional eight days, and that the parties be directed to provide a further update to this Court on June 13, 2025, if the action has not been voluntarily dismissed by that date. A continued abeyance is warranted given the developments detailed above and the ongoing efforts to reach a resolution that would fully resolve petitioners' claims. Continuing to hold this case in abeyance through June 13, 2025, will therefore best preserve the resources of the parties and the Court.

3. Counsel for petitioners have informed the government that petitioners consent to this motion.

Respectfully submitted,

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*/s/ Sharon Swingle*

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JUNE 5, 2025

**CERTIFICATE OF COMPLIANCE**

I hereby certify that the foregoing complies with the type-volume limitation of Fed. R. App. P. 27(d)(2) because it contains 555 words, according to the count of Microsoft Word.

/s/ Sharon Swingle

Sharon Swingle